

1860-002 Chancery Causes: Carlo B. Brittain vs. Allen H. Myleham &
Lee Co.

CA - Debt
T - Property

To the Worshipfull, the County Court of
See County, Virginia, in Chancery sitting.

The bill of complaint of Carlo B. Brittain
respectfully represents, that at the ~~October~~ ^{rendered} Term of
Your Worshipfull Court, judgment was ~~rendered~~
in favor of Your Orator ^{on a forth-coming bond} against Allen H. Mileham
and Russell J. Mileham ^{and John Callahorne} for the sum of \$3450.56
~~with legal interest thereon from the 1st day of~~

~~March 1858 till paid and the Costs amounting to~~
~~but to be discharged by the payment of \$1726.77 with~~
~~Legal interest thereon from the 1st day of August 1858 till paid~~
~~and the Costs of March 1858, and \$172.77 for said~~

~~judgment &c.~~ A copy of which judgment is
herewith filed as part of this bill, marked (C4).

On said judgment, an execution issued, on
which execution the sum of \$ was
made by the Sheriff, from sales of Defendants
goods and Chattels. The Sheriff then, having ex-
hausted the personal property of the said Defend-
ants, returned the said execution, "No other
property found". And Your Orator knows of no
other ^{personal} property, out of which to make the said
debt, principle, interest and costs. Your Orator
averts that there is still due and unpaid on
the said judgment, several hundred Dollars.

The said Debt, Allen H. Mileham owns and is
possessed of a tract of land lying, and being in See
County, Virginia, where he now lives, ~~consisting~~
containing about _____ acres, Your Ora-
tor avers that the rents and profits of the said
land would not pay the said debt, principle, in-
terest and costs, in five years. Under These cir-
cumstances, Your Orator ~~thinks~~ thinks Your Wor-
shipfull body should enter a decree appoint-
ing a Commissioner whose duty it shall be
to sell the said land, or so much thereof as

may be necessary, and out of the proceeds, to pay
~~the said~~ and satisfy the said judgment, principle
interest and costs, and also the costs of this suit,

Your Orator's prayer is therefore that the said
Allen H. Mileham and Russell J. Mileham be made
parties defendant to this bill, and be required to
answer the several allegations thereof fully and truly
on oath, that a decree be rendered by your Worships
subjecting the before mentioned land to sale to pay
the said debt, principle, interest and costs and also the
costs of this suit, and that a Commissioner be ap-
pointed, whose duty it shall be to make the said
^{sale for the said purpose before named}
~~sale for the said purpose before named~~
^{may be convenient with equity & suited to the nature of this case}

and Your Orator will ever pray V.C.

May the Commonwealth this writ of Spadique V.C.

Sharp for Compt.

Carlo B. Brittain
 vs } Bill in Chancery
 Allen H. Milham &
 Russell J. Milham

1859 Dec. Bill filed.
 1860 Jan. Deere nisi
 Feb. Continued
 March Continued
 April Continued
 May answer of Deft filed
 June Continued
 July Continued
 Aug. Sept. Continued
 October Continued
 Nov. Dismissed by Deft.

0 2. 98
 " 3. 00
 " 1. 00
 " 1. 00
 9. 98 cost paid

Recd 11th October 1860 of A. H. Milham nine
 Dollars & ninety eight cents, the cost on the
 within Chancery suit, said dismissed
 & shared atty for
 A. H. Milham,
 cost on before Sept of 25 now paid by Milham
 A. H. Morgan & Co

To the Worshipful County Court of See County Virginia
Allen N. Milham a defendant to a bill filed in
this Court against him and Russell J. Milham
by Charles Brittain Comrs and first for plea saith
that Complainant cannot from his own shewings
maintain his Suit against said defendants alone
- that John Galloherne should have been made
a Co-defendant. And the said Allen N. Milham
after reserving the benefit of all proper exceptions
to said bill for answer thereto doth say,

That at ~~xx~~ ~~xxx~~ the Complainant obtained a Judgment
against defts & said Galloherne at the October
term 1858 of said Court for the sum of \$3453.⁵⁴
but to be discharged by the payment of \$1724.⁷² with
interest from August 14th 1858 till paid & of the costs,
but no judgment appears to have been obtained against
Russell J. Milham. Upon this judgment execution
~~was~~ issued and several payments made thereon
by your Respondent. The precise amount of these
payments Respondent does not now distinctly rem-
-ember but he is induced to believe that there
does not remain unpaid of said Judgment
more than \$

Respondent admits that he owns the land
in the bill mentioned but he denies as alleged in
the bill that the rents and profits of said land
would be insufficient to satisfy said Judgment
with costs within five years. - Upon the contrary
he alleges that the rents & profits of said land
will be sufficient to satisfy said Judgment with
costs within less than five years & consequently
cannot be sold under the Statute and having now
answered so much of said bill as he is

advised it is material for him to answer pray s. that
Complainants bill be dismissed with costs &c

Hagan for deft

Allen H. Melham

Virginia Su County to wit

Allen H. Melham personally appeared before
the undersigned commissioner in chancery in
the circuit court of Su county and made oath
that the facts and allegations contained in the foregoing
answer are true to the best of his knowledge and
belief given under my hand this 8th day of
May 1860

H. Morgan Comm^r

Allen H. Melham

Ans^r

Leola Brillian

* This Resp^t alleges that the Judgment obtained on
scd to Com^r was for too much, the Judgment should
have been for \$1119.58 and not \$1127.22. This was
from a mistake in the calculation of the original ex-
ecution, &c. I therefore pray that this mistake be rectified

Virginia

At a court begun and held for Lee county at the
court House thereof on Monday the 18th day of October 1858.

Carlo B. Brittain

Plt

v.

A Motion on a forth-
coming Bond.

Allen H. Melham and John Gallahorne Dfts

This day came the Plaintiff by his attorney, and it appearing
to the court by the oath of a witness, that the defendants
have had legal notice of this motion, and being called but
came not. Therefore it is considered by the court that the
Plaintiff recover against the defendants, \$3453.54, the Penalty
of said bond, and his costs by him in this behalf expen-
ded and the said defendants in mercy. But which is
to be discharged by the payment of \$1726.77. with legal
interest thereon from the 14th day of August 1858. till
paid and the costs.

Test

H. J. Morgan Cl

Carlo B Brittan

vs Zephyr Jugh

William Hollahome

(A)

See for copy 20.

The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU TO SUMMON

Allen H. Milham and Russell J. Milham

to appear before the Justices of our County Court for Lee County, at the Court House, *on the 1st Monday*
in December 1859 to answer
a bill in Chancery exhibited in our said Court against *them* by *Carlo B. Brittain*

And have then there this writ. WITNESS, HENRY J. MORGAN, Clerk of our said Court, at the Court House, this
2nd day of *December* 1859, in the *84th* year of the Commonwealth.

H. J. Morgan, Clk.

We acknowledge the Regd. Service of the
within notice this Decr 17th 1859 =

A H Milham
Ch. J. Milham

20
20
18
15
10
10
50
75
20
20
20
20
2,98

Carlo. B. Britain

or 3/4 in Chy

A. H. Milham & al

Decr. Rules 1859

Executed
Chas. J. Brown & Co.